

HOUSE BILL NO. 225

INTRODUCED BY C. HUNTER

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING DEPUTY SHERIFFS IN THE POLICE ARBITRATION ACT; PROHIBITING DEPUTY SHERIFFS FROM STRIKING; PROVIDING BINDING ARBITRATION AS AN ALTERNATIVE RESOLUTION PROCEDURE IN LABOR DISPUTES INVOLVING DEPUTY SHERIFFS; AND AMENDING SECTIONS 39-31-501, 39-31-503, AND 39-31-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-31-501, MCA, is amended to read:

"39-31-501. Strikes by police officers and deputy sheriffs prohibited. (1) It is unlawful for a police officer or deputy sheriff to strike or recognize a picket line of a labor organization while in the performance of official duties.

(2) (a) As used in this section, "strike" means an action listed in subsection (2)(b), in concerted action with others, for the purpose of inducing, influencing, or coercing a change in the conditions of employment, compensation, rights, privileges, or obligations of employment of a police officer or deputy sheriff.

(b) A police officer or deputy sheriff may not engage in the following actions in concert with others:

(i) refusal to report for duty;

(ii) willful absence from the police officer's or deputy sheriff's position;

(iii) stoppage of work; or

(iv) departure from the full, faithful, or proper performance of duties of employment."

Section 2. Section 39-31-503, MCA, is amended to read:

"39-31-503. Binding arbitration -- policy. (1) It is the policy of the state that because the right of police officers and deputy sheriffs to strike is prohibited by 39-31-501, it is necessary to the high morale of police officers and deputy sheriffs and to the efficient operation of police departments and sheriffs' offices to provide an alternative, expeditious, and effective procedure for the resolution of labor disputes through binding arbitration.

(2) Binding arbitration must be scheduled by mutual agreement no earlier than 30 days following the submission of the petition seeking binding arbitration under 39-31-502(2)(d)."

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2 **Section 3.** Section 39-31-504, MCA, is amended to read:

3 **"39-31-504. Selection of arbitrator -- procedure -- cost-sharing.** (1) (a) After receipt of the petition
4 to arbitrate under 39-31-502(2)(d), the board of personnel appeals shall submit a list of five qualified,
5 disinterested, and unbiased individuals to the parties. Each party shall alternately strike two names from the list.
6 The order of striking names must be determined by a coin toss. The remaining individual is the arbitrator.

7 (b) If the parties have not designated the arbitrator and notified the board of personnel appeals of their
8 choice within 5 days of receipt of the list, the board of personnel appeals shall appoint the arbitrator from the
9 names on the list. However, if one of the parties strikes names from the list, as provided in subsection (1)(a), the
10 board of personnel appeals shall appoint the arbitrator from the names remaining on the list.

11 (2) The arbitrator shall establish the dates, times, and places of hearings. The arbitrator may issue
12 subpoenas. Within 14 calendar days prior to the date of a hearing, each party shall submit to the other party a
13 written last best offer package on all unresolved mandatory subjects. The last best offer package may not be
14 changed. The arbitrator may administer oaths and shall afford the parties the opportunity to examine and
15 cross-examine all witnesses and to present evidence relevant to the dispute.

16 (3) The arbitrator shall decide the unresolved mandatory subjects contained in the last best offer
17 package. The arbitrator shall base findings and opinions on the criteria listed in subsections (3)(a) through (3)(h).
18 Primary consideration must be given to the criteria in subsection (3)(a). The criteria are:

19 (a) the interest and welfare of the public;

20 (b) the reasonable financial ability of the unit of government to meet the costs of the proposed contract,
21 giving consideration and weight to the other services provided by the unit of government, as determined by the
22 governing body of the unit of government;

23 (c) the ability of the unit of government to attract and retain qualified personnel at the wage and benefit
24 levels provided;

25 (d) the overall compensation presently received by the police officers or deputy sheriffs, whichever is
26 applicable, including direct wage compensation, holiday pay, other paid excused time, insurance, and all other
27 direct or indirect monetary benefits;

28 (e) comparison of the overall compensation of other police officers or deputy sheriffs, whichever is
29 applicable, in comparable communities with similar populations in Montana and contiguous states;

30 (f) inflation as measured by the consumer price index, U.S. city average, commonly known as the cost

1 of living;

2 (g) the stipulations of the parties; and

3 (h) other factors, consistent with subsections (3)(a) through (3)(g), that are traditionally taken into
4 consideration in the determination of wages, hours, and other terms and conditions of employment. However,
5 the arbitrator may not use other factors if, in the judgment of the arbitrator, the factors listed in subsections (3)(a)
6 through (3)(g) provide a sufficient basis for an award.

7 (4) Within 30 days after the conclusion of the hearings or an additional period agreed upon by the parties,
8 the arbitrator shall select only one of the last best offer packages submitted by the parties and shall make written
9 findings along with an opinion and order. The opinion and order must be served on the parties and the board of
10 personnel appeals. Service may be made by personal delivery or by certified mail. The findings, opinion, and
11 order must be based upon the criteria listed in subsection (3).

12 (5) The cost of arbitration must be borne equally by the parties."

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